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SEC Modification Proposal Form – SECMP0064

Mod Title

Seeking access to consumer premises for Alt HAN Activities

Submission Date

4 October 2018

Details of Proposer

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1. What issue are you looking to address?

Background

Principle obligations within Standard Condition 55.2 of the Electricity Supply Licence and Standard Condition 49.2 of the Gas Supply Licence require that all Relevant Supplier Parties, in conjunction with each other, must ensure that Alternative Home Area Network (Alt HAN) Activities are carried out. Alt HAN Activities (as defined in Standard Licence Conditions (SLCs) 55.6 and 49.6) include, but are not limited to, those activities that are designed to determine which premises may benefit from the installation of Alt HAN Equipment.

In order to do this Alt HAN Co's Operational Service Provider will need to undertake building surveys to enable assessment of suitability for different Alt HAN Solutions.

What is the issue?

Initial surveys by the Building Surveyor, completed as part of Alt HAN Activities, are likely to require access to building meter rooms and every floor of the building to collect relevant data, such as:

- Building height
- Number of floors
- Number of premises in the building
- Location of the gas and electricity meter
- Distance between the gas and electricity meter
- Distances between the premises and the electricity meter
- ZigBee readings between each premises and the electricity meter
- ZigBee readings between each premises and the gas meter

(This list is indicative and is not intended to be exhaustive).

There are currently no provisions in the Smart Energy Code (SEC) that enable access to consumer premises to undertake these surveys and no single way of achieving access to a building that is serviced by multiple energy suppliers.

It has been agreed in principle by the Alt HAN Forum (a Forum established pursuant to SEC Section Z and consisting of Relevant Supplier Parties), that the individuals who undertake such surveys may identify themselves as representatives of the energy suppliers; provided that they only enter buildings with a customer's verbal consent, comply with the statutory/licence duties applying to energy supplier representatives when attending premises, and are liable for any damage caused while attending the premises.

This agreement has been documented in the Alt HAN Forum meeting (ALTHF_23_180517) minutes in the form of a Forum decision to issue the Operational Services ITT to the market. This constitutes an explicit acknowledgement that Alt HAN Co would be acting on behalf of energy suppliers, supporting the assumption based in the Operational Services ITT that the access required by the Building Surveyor would replicate that of a meter reader.

However, the Alt HAN Forum's decision to allow Alt HAN Co (and its contractors) access the consumer premises on behalf of energy suppliers, is binding on Alt HAN

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Co but not on all energy suppliers. Therefore, a SEC Modification is required to enact this Alt HAN Forum decision in practice.

2. Why does this issue need to be addressed? (i.e. Why is doing nothing not an option?)

At the Alt HAN Forum meeting (ALTHF_25_180719) on 19 July 2018 the decision was made to address this issue via a SEC Modification. This is seen as the most efficient approach, and therefore consistent with licence obligations.

Alternative options had been considered such as utilising the Alt HAN/ Supplier Contract (which will act as a mechanism for suppliers to procure Alt HAN Equipment) to establish the contractual chain for allowing Alt HAN Co to seek permission to access the premises on supplier's behalf. However, the Alt HAN/ Supplier Contract is a voluntary contract and a universal obligation on all relevant energy suppliers is required for Alt HAN Co to deliver the Alt HAN Activities efficiently.

For pre-installation surveys and for installing the Alt HAN Equipment an explicit permission will be sought by Alt HAN Co (and its contractors) from the building sponsor/ owner/ landlord in order to access the consumer premises and complete the necessary work, ensuring the contractual chain is in place between Alt HAN Co and that building owner/ sponsor/ landlord. Securing such permission will require additional effort in terms of costs and timescales. If the SEC Modification is not progressed, Alt HAN Co may need to seek similar arrangements for completing the initial surveys, which would greatly increase the cost of delivering Alt HAN Activities and would therefore negatively impact the Alt HAN Forum's objective for economic and efficient delivery of Alt HAN Arrangements.

According to the Alt HAN Programme Plan v5.3 the initial building surveys are to commence in January 2019. In light of the above considerations, there are no other suitable options for enabling Alt HAN Co to complete the building surveys in accordance with the Alt HAN Forum's decision. Failure for Alt HAN Co to be able to commence these surveys will impact on the ability of the efficient and economic delivery of Alt HAN Activities and the Forum's objectives.

3. What is your Proposed Solution?

In order to enact the Forum's decision, and for Alt HAN Co to ensure efficient delivery of Alt HAN Activities, it is proposed that the SEC is modified to specify that Alt HAN Co can act as a representative of the energy suppliers when seeking permission from the consumer to access the premises. It is understood that such permission is on a voluntary basis, and not based on the energy suppliers' statutory rights of access.

This access is to be provided on the basis that the personnel of Alt HAN Co (and its contractors) may only undertake a visual inspection of the premises and may not undertake any intrusive work.

With regards to the messaging that the building surveyor will use while on site and any instructions and processes they need to follow, this will be developed in further detail once they have been appointed, with all Relevant Supplier Parties having an opportunity to feed into, review and agree the requirements via the Forum.

The SEC drafting requires the building surveyor to act in line with the Good Industry Practice, applicable laws and other instructions whilst on site. The energy suppliers are given 3rd party rights to claim against the Operational Service Provider if the

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Operational Service Provider breaches these obligations (subject to the limits on liability in the Operational Service Provider contract). In due course, the energy suppliers who sign the Energy Supplier Agreement with Alt HAN Co will agree in that agreement not to use those 3rd party rights and instead to bring any claim via Alt HAN Co.

It is also recognised that Alt HAN Activities cover a wider scope of activities than building surveys, hence the proposed drafting does not limit the scope to building surveys but refers to the 'Alt HAN Activities' instead.

The proposed solution is to include the drafting below in SEC Section Z. We would propose this is added as a new Section Z2.49.

The drafting provided below has undergone Alt HAN Co and SEC legal review.

Suggested SEC drafting:

Z2.49 Where personnel of AltHANCo (or its contractor) reasonably require, in connection with the Alt HAN Activities, access to a premises (or part of a premises) to which members of the public do not generally have free access, then:

- (a) each Relevant Supplier Party agrees that these personnel may identify themselves as a representative of that Relevant Supplier Party (or Relevant Supplier Parties collectively) when seeking to obtain verbal permission from a relevant Energy Consumer to access such premises or part of a premises (for which purpose, a "relevant Energy Consumer" is one of the Relevant Supplier Party's Energy Consumers who reasonably appears to have authority to grant such permission);
- (b) subject to obtaining such permission from a relevant Energy Consumer, these personnel may access such premises or part of a premises as the Relevant Supplier Party's representative for purposes connected to the Alt HAN Activities;
- (c) AltHANCo shall ensure that these personnel shall, while attending the premises of Energy Consumers in connection with the Alt HAN Activities, act in accordance with Good Industry Practice, the site rules and reasonable instructions of the owner and/or occupier of the relevant premises notified to such personnel, and all Laws and/or Directives applicable to representatives of Relevant Supplier Parties when attending premises; and
- (d) AltHANCo shall ensure that each Relevant Supplier Party has the right under the Contract (Rights of Third Parties) Act 1999 to enforce breaches of paragraph (c) above against AltHANCo's contractor in accordance with AltHANCo's contract with such contractor.

4. What SEC objectives does this Modification better facilitate?

This Modification better facilitates General SEC Objective (h¹), to facilitate the establishment and operation of the Alt HAN Arrangements, by:

- enabling energy suppliers to meet their licence obligations with respect to delivering Alt HAN Activities effectively and efficiently. The permission to seek access to the buildings will enable Alt HAN Co to determine which premises will benefit from the installation of Alt HAN Equipment.

¹ Facilitate the establishment and operation of the Alt-HAN Arrangements.

The Alt HAN Forum, which all Relevant Supplier Parties are entitled to attend, have already agreed in principle that the individuals who undertake such building surveys may identify themselves as representatives of energy suppliers.

5. What is the requested Path type?

3

It is recommended that this Modification will not require Authority consent and should be progressed as a Path 3 'Self-Governance' Modification.

The Modification is not proposed by the Authority or by DCC at the direction of the Authority, therefore does not have the status of a Path 1 Modification.

We also believe the Modification does not meet the criteria set out in SEC Section D2.6, in terms of any significant or material impact on energy consumers, competition in energy supply, environment, data privacy, security of supply of security of systems, or SEC Sections C or D, and is not likely to discriminate one Party or class of Parties. Therefore, it does not hold the status of a Path 2 Modification.

In addition, we note that this matter has already been discussed at the Alt HAN Forum and the Alt HAN Supplier Contract Governance and Regulatory sub-group, and, as such, all Relevant Supplier Parties have been given an opportunity to consider the proposed solution.

Furthermore, the proposed Modification enacts the Forum's decision that has already been made and is supported by taking action via this SEC modification. It is suggested therefore that this Modification does not require the Refinement Process as it has already been assessed by Industry and should be able to progress directly to Modification Report stage.

6. Are you requesting that the Modification Proposal be treated as Urgent?

This Modification should not be treated as urgent. However, it should be noted that the building surveys are scheduled to commence in January 2019. Failure for Alt HAN Co to be able to commence these surveys on time will impact on the ability of the efficient and economic delivery of Alt HAN Activities and the Forum's objectives. Timely progression of this Modification is therefore critical.

7. What is your desired implementation date?

The request is for the Modification to be implemented outside of a scheduled SEC Release, so it is in place for January 2019 when building surveys are scheduled to commence.

Should this not be possible then the February 2019 SEC Release would be the next preferred implementation date.

8. Which SEC Parties are expected to be impacted? (Please mark with an X)

Large Supplier Parties	X	Small Supplier Parties	X
Electricity Network Parties		Gas Network Parties	

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Other SEC Parties			
<p>This change is in relation to Alt HAN Arrangements (Section Z of the SEC), so will only impact Large Supplier Parties and Small Supplier Parties. This is because Alt HAN Co will be seeking permission from consumers on behalf of all Relevant Supplier Parties.</p>			
9. Which parts of the SEC will be impacted?			
<p>The part of the SEC which will be impacted is SEC Section Z.</p>			
10. Will there be an impact on Central Systems? (Please mark with an X)			
DCC Systems	<input type="checkbox"/>	Party interfacing systems	<input type="checkbox"/>
Smart Metering Systems	<input type="checkbox"/>	Communication Hubs	<input type="checkbox"/>
Other systems	<input type="checkbox"/>		
<p>There will be no impact on Central Systems.</p>			
11. Will there be any testing required?			
<p>There will be no testing required.</p>			
12. Will this Modification impact other Energy Codes?		<p>No</p>	
<p>There will be no impact on other Energy Codes.</p>			
13. Will this Modification impact Greenhouse Gas Emissions?		<p>No</p>	
<p>There will be no impact on Greenhouse Gas Emissions.</p>			